

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Eduardo TRIFONI, et al.)	Group Art Unit: 1795
)	
Application No.: 10/524,040)	Examiner: John S. MAPLES
)	
Filed: February 9, 2005)	Confirmation No.: 2846
)	
For: MEMBRANE ELECTROCHEMICAL)	
GENERATOR)	
)	
Commissioner for Patents		
P.O. Box 1450		
Alexandria, VA 22313-1450		

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a Restriction Requirement dated June 29, 2009, the period for reply having been extended one month to August 29, 2009, the Examiner required restriction under 35 U.S.C. § 121 between Group I (claims 1-24, drawn to a first membrane electrochemical generator) or Group II (claim 25, drawn to a second membrane electrochemical generator).

Applicants respectfully traverses the restriction requirement, however, to be fully responsive, Applicants elect, with traverse, the subject matter of Group I, claims 1-24, drawn to a first membrane electrochemical generator.

The instant application is a national stage filing under 35 U.S.C. § 371 and thus unity of invention practice applies to the application. The Examiner contends that "Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1

because, under PCT Rule 13.2, they lack the same or corresponding special technical features." Restriction Requirement at page 2.

Applicants respectfully disagree with the present restriction requirement, and submit that the search and examination of the subject matter of all of pending claims would not constitute a serious burden because a search of the membrane electrochemical generator recited in the claims of Group I would appear to overlap with a search of the membrane electrochemical generator recited in the claims of Group II. Accordingly, it is unclear what burden is on the Examiner to examine the claims of Groups I and II together.

In view of the foregoing remarks, Applicants respectfully submit that the Examiner fails to show that the search and examination of the subject matter of all of pending claims 1-25 would constitute a serious burden. Thus, in order to avoid unnecessary delay and duplicative examination by the Patent Office, Applicants respectfully request that the restriction requirement be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
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By: 

Mark D. Sweet
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Dated: August 27, 2009